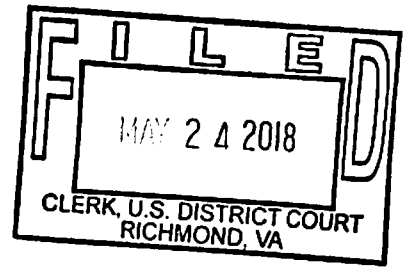


IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division



KENNETH NEWKIRK,

Petitioner,

v.

DIRECTOR, DEPT. OF  
CORRECTIONS

Respondent.

Civil Action No. 3:18CV312-HEH

**MEMORANDUM OPINION**

**(Dismissing Without Prejudice 28 U.S.C. § 2254 Petition)**

Kenneth Newkirk, a Virginia state prisoner proceeding *pro se*, filed a petition pursuant to 28 U.S.C. § 2254 (“§ 2254 Petition”). By Memorandum Opinion and Order entered on September 9, 2013 (ECF Nos. 6, 7), the Court dismissed an earlier 28 U.S.C. § 2254 petition filed by Newkirk for failure to exhaust his state court remedies. *See Newkirk v. Lerner*, No. 3:13CV570-HEH, 2013 WL 4811219, at \*1 (E.D. Va. Sept. 9, 2013) (“*Newkirk I*”). The Order in *Newkirk I* informed Newkirk:

Before the Court will consider any future habeas petition from Newkirk, he must explain how he has exhausted his state court remedies. Accordingly, Newkirk must attach to the front of any future petition the following statement: “I have pursued all of my state court remedies for the claims and convictions described herein.” Failure to comply with this directive will result in summary dismissal of the action.


*Newkirk I*, No. 3:13CV570-HEH (E.D. Va. Sept. 9, 2013), ECF No. 7.

Newkirk's current § 2254 Petition fails to comply with the Court's prior Order. Accordingly, the action will be dismissed without prejudice. A certificate of appealability will be denied.

Newkirk also requests that "U.S. Magistrate Robert [sic] C. Young and U.S. District Judge Henry Hudson be forever barred off all my cases, to be forever recused off [of] this case and all of my cases." (Mot. Recusal 1, ECF No. 3 (capitalization corrected).) The bar for recusal is high, as "courts have only granted recusal motions in cases involving particularly egregious conduct." *Belue v. Leventhal*, 640 F.3d 567, 573 (4th Cir. 2011). Contrary to Newkirk's belief, unfavorable "judicial rulings alone almost never constitute a valid basis for a bias . . . motion" or a valid reason to demand recusal of a judge. *Liteky v. United States*, 510 U.S. 540, 555 (1994) (citation omitted). Newkirk has not demonstrated that either the undersigned or the Honorable Roderick C. Young harbors any bias against him or any circumstance where the impartiality of either the undersigned or Judge Young might reasonably be questioned. *See* 28 U.S.C. §§ 144, 455. Accordingly, the Motion for Recusal (ECF No. 3) will be denied.

An appropriate Order shall accompany this Memorandum Opinion.

Date: MAY 24, 2018  
Richmond, Virginia

 /s/\_\_\_\_\_  
Henry E. Hudson  
United States District Judge